

A. G. Contract No. KR932532TRN
JPA No.: 93-148
ECS File No.: 94-48
Project: H3681 010
Section: Design Western/Grand Int.
and Frank Reed Road

NO. <u>18527</u>
FILED WITH SECRETARY OF STATE
Date Filed <u>04/21/94</u>
<u>Richard Mahoney</u> Secretary of State
By <u>Vicky Greenwood</u>

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
CITY OF NOGALES

THIS AGREEMENT is entered into 21 APR 11, 1993, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF NOGALES, acting by and through its MAYOR and CITY COUNCIL (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-108 and 28-1891 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

3. In anticipation of the approval of the North American Free Trade Agreement, the Arizona Legislature has appropriated FY 93-94 funds, administered through the State Transportation Board, for United States/Mexico border area transportation improvement projects, which may include planning, engineering design, construction, maintenance or pavement preservation. The Transportation Board has approved a grant of \$120,000.00 to the City for design of improvements to the intersection of Western Avenue and Grand Avenue, and the realignment of Frank Reed Road between Mariposa and B-19.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

II. SCOPE

1. The City will:

a. Issue requests for proposals and hire an appropriate engineering consultant to design the Project to State standards. Comply with all state procurement statutes, rules and regulations.

b. Provide copies of the design documents to the State at the 30%, 60% and 95% level of completion for design review, and incorporate State's review comments as appropriate.

c. Invoice the State for grant funds (Arizona Department of Transportation, ATTN: Director, Transportation Planning Division, 206 S. 17th Avenue, Room 300 B, Phoenix, AZ 85007), in the amount of \$120,000.00. Be responsible for all Project costs over and above \$120,000.00.

d. Provide the State a copy of the executed Project contract(s). Substantially draw down and expend the funds within six (6) months after the effective date of the contract(s). Provide the State written reports of all fund expenditures, supported by invoices, receipts or other suitable documentation, and a final accounting report no later than thirty (30) days after funds are fully expended. Reimburse the State any funds received under this agreement which are expended and subsequently disallowed by the State.

2. The State will:

Within thirty (30) days after receipt and approval of the contract(s) and invoice, advance the City funds in the amount of \$120,000.00.

III. MISCELLANEOUS PROVISIONS

1. The only interest of the Department of Transportation in the Project is to convey pass through funds for the use and benefit of the City by reason of state law under which funds for the Project are authorized to be expended.

2. The City agrees to indemnify and save harmless the State, or any of its departments, agencies, officers or employees, from and against all loss, expense, damage or claim of any nature whatsoever which is caused by any activity, condition or event arising out of the performance or non-performance by the State of any of the provisions of this agreement.

3. Should the Project not be completed, be partially completed, or be completed at a lower cost than the advanced amount, or for any other reason should any of these funds not be expended, a proportionate amount of the funds provided under this agreement shall be reimbursed to the State.

4. This agreement shall remain in force and effect until completion of said Project, reimbursement and subsequent reports; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, may be cancelled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party.

5. This agreement shall become effective upon filing with the Secretary of State.

6. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

7. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

8. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth in Arizona Revised Statutes Section 12-1518.

9. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Room 222E Mail Drop 616E
Phoenix, AZ 85007

City of Nogales
City Administrator
777 N. Grand Avenue
Nogales, AZ 85621


10. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.


IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF NOGALES


STATE OF ARIZONA

Department of Transportation

By 
JOSE L. CANCHOLA
Mayor

By 
HARRY A. REED
Director, Transportation
Planning Division

ATTEST:

By 
FERNANDO CASTRO
City Clerk

230
28sep

RESOLUTION

BE IT RESOLVED on this 29th day of September 1993, that I, the undersigned LARRY S. BONINE, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Transportation Planning Division, to enter into an agreement with City of Nogales for the purpose of defining responsibilities for conveying NAFTA grant funds to the City to design improvements for the intersection of Western Avenue and Grand Avenue and the realignment of Frank Reed Road between Mariposa Road and B-19.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted for approval and execution by the Director, Transportation Planning Division.

Larry S. Bonine
for LARRY S. BONINE
Director

RESOLUTION NO. 94-01-06

A RESOLUTION OF THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF NOGALES APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF NOGALES AND THE STATE OF ARIZONA (AG CONTRACT NO. KR932532TRN) FOR COOPERATION IN THE DESIGN OF IMPROVEMENTS TO THE INTERSECTION OF WESTERN AVENUE AND GRAND AVENUE, AND THE REALIGNMENT OF FRANK REED ROAD BETWEEN MARIPOSA AND B-19; AND DECLARING AN EMERGENCY

RECITALS

WHEREAS, the City of Nogales (City) and the State of Arizona (State) desire to cooperate for the design of improvements to the intersection of Western Avenue and Grand Avenue, and the realignment of Frank Reed Road between Mariposa and B-29; and

WHEREAS, City is empowered by A.R.S. §48-572 to enter into an intergovernmental agreement by resolution; and

WHEREAS, the State Legislature has appropriated FY93-94 funds for border and transportation improvements; and

WHEREAS, the State of Arizona, acting by and through its Department of Transportation has agreed to make \$120,000 available by grant to the City for the design of improvements to the intersection of Western Avenue and Grand Avenue, and the realignment of Frank Reed Road between Mariposa and B-19; and

WHEREAS, the parties hereto desire to cooperate in the project all as is more fully set forth in the attached Intergovernmental Agreement,

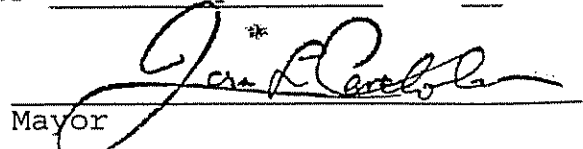
NOW, THEREFORE, BE IT RESOLVED by the mayor and board of aldermen of the City of Nogales that the mayor be and hereby is authorized to execute said Intergovernmental Agreement, and that city staff be directed to do all acts necessary to accomplish the provisions of the Intergovernmental Agreement.

WHEREAS, the preservation of the public peace, health, and safety of the City of Nogales require that this resolution shall become immediately operative,

AN EMERGENCY IS HEREBY DECLARED TO EXIST, and this resolution is hereby exempted from the referendum provisions of the Charter of the City of Nogales and shall take effect and be in full force from and after its passage and approval.

PASSED AND ADOPTED THIS 12th DAY OF January 1994.

APPROVED THIS 12th DAY OF January 1994.


Mayor


JPA 93-148

APPROVAL OF THE CITY OF NOGALES ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION and the CITY OF NOGALES and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

DATED this 16th day of March, 1994

OFFICE OF THE CITY ATTORNEY
O'Connor, Cavanagh, Anderson
Westover, Killingsworth & Beshears


By James D. Robinson
City Attorney



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

GRANT WOODS
ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007-2926

MAIN PHONE : 542-5025
TELECOPIER : 542-4085

INTERGOVERNMENTAL AGREEMENT

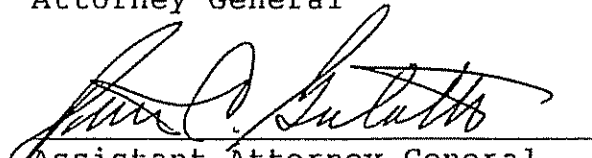
DETERMINATION

A.G. Contract No. KR94-0626-TRN, is an agreement between public agencies and has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 14th day of April, 1994.

GRANT WOODS
Attorney General


Assistant Attorney General
Transportation Section